**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**APPELLATE SIDE**

**CRIMINAL APPLICATION NO. 2258 OF 2007**

Vishal Bhagwan Patil. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

S.R.Chitnis, senior counsel with S.V.Kotwal for the applicant.

U.V.Nikam, APP for the State.

**CORAM: V.C.DAGA, J.**

**DATED: 27th July 2007.**

**P.C.:**
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. Heard learned senior counsel for the applicant and learned A.P.P. for the State.

2. The applicant has invoked jurisdiction of this Court under section 439 of Criminal Procedure Code, 1973 (Cr.P.C.) to seek bail in connection with C.R.No.I-175/2006 registered with Taloja Police Station for the offences punishable under sections 302, 498A read with section 34 of Indian Penal Code.

3. The applicant was the husband of Sushma. Sushma was married to the applicant about two years prior to the incident. She was about 22 years old at the time of the incident. The complainant has stated

that the applicant used to frequently ask Sushma to get money from her parental home and on account of this he used to ill-treat her. He has further stated that four months prior to the incident, the applicant had demanded money to purchase a motorcycle and on that count he was ill-treating and beating Sushma. The complainant has further stated that on account of this, he deposited an amount of Rs.40,000/- in the account of Sushma. On 26th October, 2006, the complainant was informed that his daughter Sushma is ill and he should immediately come to the house of the applicant. On reaching the house of the applicant, the complainant found that his daughter Sushma was lying on the floor. Her neck was swollen and blood was coming out of her mouth. The complainant has stated this fact in his complaint and thereafter he has stated that the husband of Sushma i.e. the applicant has pressed neck and mouth of Sushma and murdered her.

4. At this juncture, it will be relevant to mention that the applicant had moved an application for bail before this Court being Criminal Application No.1046/2007 which came to be rejected vide order dated 16th April, 2007. However liberty was granted in his favour to prefer fresh application for bail at later stage on receipt of viscera report.

5. The applicant has now again invoked jurisdiction of this Court under section 439 of Cr.P.C. to seek bail contending that the viscera report does not show any adverse material against the present applicant. He, thus, prayed that the applicant be granted bail.

6. Learned A.P.P., appearing for the State, strongly opposed the prayer for grant of bail and brought to my notice voluminous incriminating material against the applicant in support of his submission to seek rejection of the bail application. The viscera report reads as under:

> "Received tissue bits of cerebrum, heart, lung, trachea for histopathological examination.
>
> Grossly, all organs were unremarkable microscopically, trachea showed submucosa congestion, adventitia showed haemorrhage & congestion. The other organs were unremarkable.
>
> Comment: Trachea- Congestion & haemorrhage

7. The perusal of the aforesaid report is self-explanatory which certifies that trachea showed submucosa congestion and haemorrhage.

8. The post-morten report notes show two injuries i.e. abrasion over lower lip 1x0.5 and contusion over neck superficial above the cvical cartilage 7 cm. x 1 cm. just above hyoid bone. Left side haemorrhage, bleeding present.

9. The learned A.P.P. has also rightly contended that the case of the present applicant cannot be treated at par with his brother and father who are released on bail. He pointed out that there was scuffle between the deceased Sushma and the present applicant and in the scuffle gold chain of the applicant had fallen at the place of incident and it was recovered at his instance during investigation. He also relied upon the recovery pachanama placed on record at page-39. He also pressed into service "inquest panchanama" to show that the blood was coming out from the mouth and ears of the deceased.

10. Taking into account entire material and nature

of the heinous crime committed by the applicant punishable under sections 302 and 498A of I.P.C., in my considered view, this is not a fit case for grant of bail. No case is made out for grant of bail even after receipt of viscera report.

11. In the result, application is rejected.

**JUDGE**